

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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**JULIO FIGUEROA,**

**Plaintiff,**

v.

**9:13-CV-48  
(FJS/ATB)**

**MS. HOLMES, Registered Nurse, Upstate Correctional Facility; MS. N. SMITH, Nurse Administrator, Upstate Correctional Facility; and MR. PARMER, Nurse Practitioner, Upstate Correctional Facility;**

**Defendants.**

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**APPEARANCES**

**OF COUNSEL**

**JULIO FIGUEROA**

**05-A-4469**

Upstate Correctional Facility  
P. O. Box 2001  
Malone, New York 12953  
Plaintiff *pro se*

**OFFICE OF THE NEW YORK  
STATE ATTORNEY GENERAL**

The Capitol  
Albany, New York 12224  
Attorneys for Defendants

**CHARLES J. QUACKENBUSH, AAG**

**SCULLIN, Senior Judge**

**ORDER**

Currently before the Court is Magistrate Judge Baxter's September 20, 2013 Report-Recommendation, in which he recommended that this Court grant Defendants' motion to dismiss for failure to state a claim with regard to Plaintiff's retaliation claims and deny their motion with respect to Plaintiff's claim that Defendants were deliberately indifferent to his serious medical needs. *See* Dkt. 25 at 12. Plaintiff filed a letter dated October 2, 2013, stating that he

does not object to the September 20, 2013 Report-Recommendation. *See* Dkt. 26. Defendants did not file any objections to these recommendations.

When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice. *See Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, \*10 (N.D.N.Y. July 16, 2009) (citation and footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify in whole or in part, the . . . recommendations made by the magistrate judge.'" *Id.* (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Baxter's September 20, 2013 Report-Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

**ORDERS** that Magistrate Judge Baxter's September 20, 2013 Report-Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

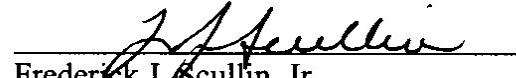
**ORDERS** that Defendants' motion to dismiss is **GRANTED** with respect to Plaintiff's retaliation claims and **DENIED** with respect to Plaintiff's claim that Defendants were deliberately indifferent to his serious medical needs; and the Court further

**ORDERS** that this matter is referred to Magistrate Judge Baxter for all further pretrial matters; and the Court further

**ORDERS** that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: October 18, 2013  
Syracuse, New York

  
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Frederick J. Scullin, Jr.  
Senior United States District Court Judge